

House Bill 527

By: Representatives Stephens of the 164<sup>th</sup> and Lindsey of the 54<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for the comprehensive revision of provisions regarding payment of excess proceeds of a tax sale by tax commissioners or tax collectors; to provide for procedures, conditions, and limitations; to change certain provisions regarding tax commissioners and tax collectors acting as ex officio sheriffs; to change certain provisions regarding compensation for performing such duties; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by striking Code Section 48-4-5, relating to payment of excess proceeds of a tax sale by a tax commissioner or tax collector, and inserting in its place a new Code Section 48-4-5 to read as follows:

"48-4-5.

(a) If there is any excess after paying taxes, costs, and all expenses of a sale; made by the tax commissioner, tax collector, or sheriff, the officer selling the property shall be given written notice of such excess to the record owner of the property at the time of tax sale and the record owner of each security deed and mortgage affecting the property at the time of tax sale. Such notice shall be delivered by certified mail or statutory overnight delivery with return receipt requested within 30 days after the tax sale. The notice shall contain a description of the land sold, the date sold, the name and address of the tax sale purchaser, the total sales price, and the amount of excess collected and held by the tax commissioner, tax collector, or sheriff. The notice shall state that the excess is available for distribution to the owner in the order of priority in which their interest exists, provided, however, that no action or proceeding for payment shall commence after four years has elapsed from the date of tax sale.

(b) ~~The~~ the tax commissioner, ~~or~~ tax collector, or sheriff may file an interpleader action in superior court for the payment of the amount of such excess. Such excess shall be distributed by the superior court to intended parties, including the owner as their interest appears and in the order of priority in which their interest exists.

(c) After two years have elapsed from the tax sale date, the tax commissioner, tax collector, or sheriff shall pay over to the county governing authority any excess that has not been distributed and for which no action or proceeding is pending in a claim for payment. Such excess paid over by the tax collector, tax commissioner, or sheriff shall be deposited and held in escrow by the county governing authority until four years have elapsed from the date of the tax sale. If any excess remains for which no action or proceeding for payment is pending, the excess shall become the property of the county governing authority and no person shall bring any action or proceeding for the payment or recovery thereof."

## SECTION 2.

Said title is further amended by striking Code Section 48-5-137, relating to tax commissioners and tax collectors acting as ex officio sheriffs, and inserting in its place a new Code Section 48-5-137 to read as follows:

"48-5-137.

(a) Tax collectors and tax commissioners, ~~upon the written consent of the sheriff of the county involved, may~~ in every county of this state shall be ex officio sheriffs insofar as to enable them to collect taxes due the state and county by levy and sale under tax execution. Tax collectors or tax commissioners acting as ex officio sheriffs as provided in this Code section shall not be allowed to turn over any tax execution to the sheriffs or to any other levying officials of this state except when it becomes necessary for the purpose of enforcing the execution by sending it to a county other than that in which the execution was issued. Each tax collector or tax commissioner by virtue of his office shall have full power and authority to levy all tax executions issued by him as effectively as if done by the sheriffs of the counties.

(b) Each tax collector or tax commissioner when acting as an ex officio sheriff shall have full power to bring property to sale for the purpose of collecting taxes due the state and county. Such power shall explicitly include the authority to direct the deputies of the county sheriff in the execution of the ex officio sheriff's duties under this Code section. Additionally, ~~he~~ each tax commissioner or tax collector acting as an ex officio sheriff shall have all the powers vested in sheriffs for the advertisement of the property for sale, for the sale of the property, and for the making and delivery of all due and proper conveyances and bills of sale. All sales made by a tax collector or tax commissioner acting as an ex officio

1 sheriff shall be valid and shall carry the title to property sold as fully and completely as if  
2 made by the sheriff of the county.

3 (c) All acts done and performed by tax collectors or tax commissioners by virtue of this  
4 Code section shall be done in conformity with the law in force governing the performance  
5 of the act done. All advertisements of property to be sold by a tax collector or tax  
6 commissioner acting as an ex officio sheriff, when the advertisements are required by law  
7 to be published in a newspaper, shall be published in the newspaper in which the sheriff's  
8 advertisements are published.

9 (d) In carrying out this Code section, tax collectors or tax commissioners shall have the  
10 power and authority to appoint one or more deputies with all the powers of the tax  
11 collectors or tax commissioners while acting as ex officio sheriffs in the levy and collection  
12 of taxes. Each deputy shall be required to give bond as may be required by the tax  
13 collectors or tax commissioners under the law. Each tax collector or tax commissioner shall  
14 be responsible for the acts of the deputy or deputies in the same manner and to the same  
15 degree as sheriffs are liable for the acts of their deputies.

16 (e) This Code section is supplemental to and cumulative of any general law of local  
17 application providing for tax collectors or tax commissioners to be ex officio sheriffs for  
18 the purposes provided in this Code section and is not in lieu of any such law to the extent  
19 that any such law conflicts with this Code section.

20 ~~(f) With respect to a tax collector or tax commissioner or his deputy acting pursuant to this~~  
21 ~~Code section in the county in which he holds office, the requirement of written consent of~~  
22 ~~the sheriff shall not apply in counties within the following population brackets according~~  
23 ~~to the United States decennial census of 1970 or any future such census:~~

24 ~~(1) Not less than 300,000;~~

25 ~~(2) Reserved.~~

26 ~~(3) Reserved.~~

27 ~~(4) Reserved.~~

28 ~~(5) Reserved.~~

29 ~~(g)~~(f) Each tax collector or tax commissioner who is compensated on a salary basis and  
30 who ~~is authorized to act~~ acts as an ex officio sheriff under this Code section and whose  
31 office performs substantially all of the duties of the sheriff with respect to tax executions  
32 shall be entitled to a salary of \$309.93 per month for his or her service as ex officio sheriff.  
33 Such compensation shall be in addition to any other compensation to which such tax  
34 commissioner or tax collector is entitled. Such additional compensation shall not be paid  
35 to any tax commissioner who is compensated solely by the fee system of compensation;  
36 but such compensation shall be paid to any tax commissioner who is compensated in part

1 by fees and in part by a salary. Such compensation shall be paid in equal monthly  
2 installments from county funds."

3 **SECTION 3.**

4 This Act shall become effective upon its approval by the Governor or upon its becoming law  
5 without such approval.

6 **SECTION 4.**

7 All laws and parts of laws in conflict with this Act are repealed.